

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
RUZDIJA DZIDZOVIC,
Individually and on behalf of a class,

Plaintiff,

- against -

COLLECTCORP CORPORATION,

Defendant.
-----X

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUN 17 2011 ★

BROOKLYN OFFICE

CV 11 - 2860

WEINSTEIN, J.

COMPLAINT - CLASS ACTION

INTRODUCTION

GO. M. J.

1. Plaintiff brings this action to secure redress against unlawful credit and collection practices engaged by defendant Collectcorp Corporation. Plaintiff alleges violation of the Fair Debt Collections Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA"). The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give certain information. 15 U.S.C. §§1692c, 1692d, 1692e, 1692f, and 1692g.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§1331, 1337, and 15 U.S.C. §1692k (FDCPA).

3. Venue and personal jurisdiction over defendant in this District is proper because defendant's collection activities impacted plaintiff here and because defendant transacts business in this District.

PARTIES

4. Plaintiff, Ruzdija Dzidzovic, is an individual resident of the State of New York, residing in the County of Queens. Plaintiff is a "Consumer" as that term is defined by 15 U.S.C. §1692a(3) of the FDCPA in that the alleged debt that the defendant sought to collect from Plaintiff is a consumer debt.

5. Defendant, Collectcorp Corporation is a Delaware Foreign Business Corporation doing business in New York with a principal place of business located at 455 North 3rd Street, Suite 260, Phoenix, AZ 85004-0630. Defendant is regularly engaged in the collection of debts allegedly owed by consumers. Defendant is a "Debt Collector" as that term is defined by 15 U.S.C. §1692a(6) of the FDCPA.

FACTS

6. On or about February 5, 2011, Plaintiff was mailed the collection letter attached as Exhibit A. Plaintiff received it in the ordinary course of mail.

7. Exhibit A sought to collect a debt incurred for personal, family or household use and not for business purposes.

8. Exhibit A is, on information and belief, a form letter.

9. On March 2, 2011, Plaintiff, through his counsel, wrote to defendant disputing the debt and requesting verification of the debt including the full corporate name and address of the original creditor. Plaintiff's dispute letter is annexed hereto as Exhibit B.

10. Upon information and belief, defendant received Plaintiff's dispute letter.

11. On or about May 7, 2011, Plaintiff received further communication from defendant which was addressed to Plaintiff at his Queens, NY address. Defendant's communication is annexed hereto as Exhibit C. Exhibit C is in the form of a "first letter" through which defendant refuses to provide the duly requested address of the original creditor as required by 15 U.S.C. §1692g(a)(5).

12. The letter attached as Exhibit C attempts to collect a disputed debt prior to the debt collector verifying the disputed debt in violation of 15 U.S.C. §1692g(b).

13. Both Exhibit A (the original letter) and Exhibit C (the alleged verification letter) are attempts to collect Bank of America account number 4888932999733614 and attempt to collect the identical \$18,150.85. However, in an effort to use false, deceptive and misleading means of collecting this debt, defendant changed its Reference Number on Exhibit C in order to make it appear that the verification letter is simply a "first letter" on a new account when in fact it is a continuation of defendant's collection efforts without providing the requisite verification in violation of 15 U.S.C. §1692e.

14. By changing the Reference Number while maintaining all other aspect of the account including the account number and the amount due, defendant's communication by and through Exhibit C is an attempt to lead Plaintiff and the least sophisticated consumer to believe that Exhibit C refers to a different debt from Exhibit A.

15. Exhibit C is simply a means to circumvent the requirements of 15 U.S.C. §1692g(b).

16. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

17. Plaintiff repeats, realleges and incorporates by reference the allegations contained in paragraphs 1 through 16 of this Complaint as though set forth at length herein.

18. Collection letters such as those sent by defendant are to be evaluated by the objective standard of hypothetical "least sophisticated consumer."

19. Defendant's debt collection attempts violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692c, 1692e, 1692e(2), 1692e(10), 1692g, 1692g(a)(2), 1692g(a)(5), and 1692(b).

CLASS ALLEGATIONS

20. Pursuant to Fed.R.Civ.P. 23(a), plaintiff brings this claim on behalf of a class.

21. The class consists of (a) all natural persons (b) who were sent a letter as Exhibit A (c) seeking to collect a debt (d) on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action (e) who disputed the debt and asked for verification of the debt and (f) who were sent a letter as Exhibit C.

22. The class is so numerous that joinder is impracticable.

23. On information and belief, there are more than 50 natural persons who were sent letters similar to Exhibit A and Exhibit C on or after a date one year prior to the filing of this action and ending 20 days after the filing of this action.

24. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common questions are:

- a. whether the defendant violated various provisions of the FD CPA, including, but not limited to 15 U.S.C. §§ 1692c, 1692e, 1692e(2), 1692e(10), 1692g, 1692g(a)(2), 1692g(a)(5), and 1692(b);
- b. Whether Plaintiff and the Class have been injured by the defendant's conduct;
- c. Whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and
- d. Whether Plaintiff and the Class are entitled to declaratory relief.

25. Plaintiff's claims are typical of the claims of the class members. All are based on the same factual and legal theories.

26. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

27. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible. The nature of the wrong depends on the deception of the consumer, so it is unlikely to be detected or remedied without a class action.

WHEREFORE, Plaintiff respectfully demands judgment in favor of Plaintiff and the class and against the Defendant as follows:

- a) Statutory damages;
- b) Attorney's fees, litigation expenses and costs of suit;
- c) Declaratory relief finding the collection letter violates the FDCPA; and
- d) For such other and further relief which this court deems just and proper.

Dated: New York, New York
June 14, 2011

SHAKED & POSNER
Attorneys for Plaintiff

By: 

Dan Shaked (DS-3331)
255 West 36th St., Fl. 8
New York, NY 10018
Tel. (212) 494-0035
Fax (646) 367-4951
e-mail: dan@shakedandposner.com

JURY DEMAND

Plaintiff hereby demands trial by jury.



Dan Shaked (DS-3331)

EXHIBIT A

P.O. Box 101928
Dept. 4947A
Birmingham, AL 35210-1928

004775



26 - 28534-07
Ruzdija Dzidzovic
Apt 3
3012 23rd St
Astoria, NY 11102-3324

COLLECTCORP

800-678-3052

Our hours of operation are

Mon - Thu 8:00am to 11:00pm EST

Fri, 8:00am to 5:00pm and Sat 8:00am to 2:00pm EST

Date: February 05, 2011

Reference #: BAM 71-074240353

Client Name: BANK OF AMERICA - PRE PRIME AE87

Account #: 4888932999733614

Amount Owing: 18,150.85



Dear Sir/Mme.,

Your account has been placed with Collectcorp Corporation, a collection agency. This communication from a debt collector is an attempt to collect a debt and any information obtained will be used for that purpose. Calls to or from our company may be monitored or recorded for quality assurance purposes.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Should you have any questions concerning your payment or your account, please telephone our office. Please make sure that your payment clearly identifies your name and that of your creditor so that payment can be properly applied to your account. All payments mailed to this office should be payable to Collectcorp Corporation.

Online check payments can be made on our website at www.collectcorp.com with the use of this security feature code 945790.

MRSINDERPREET GREWAL
(877) 443-7012

New York City Department of Consumer Affairs license number 1023996.

Please Detach and Return This Portion with Payment

Ruzdija Dzidzovic
Apt 3
3012 23rd St
Astoria, NY 11102-3324



COLLECTCORP CORPORATION
455 North 3rd Street, Suite 260
Phoenix, AZ 85004-3924

Option 1: Make Check Payable To: Collectcorp Corporation

Option 2: Pre-Authorized — Auto Pay []

Routing No. _____

Name of Bank _____

Check No. _____

Account No. _____

Name of Account Holder _____

Signature _____

Payment Amount \$ _____

Reference #: BAM 71-074240353

Company: Collectcorp Corporation (Loc. 71)

By mailing your check you authorize Collectcorp to debit your account, one time for the amount of the check, via an electronic funds transfer (EFT). Funds may be withdrawn from your account as soon as the same day payment is received. In the event your check is returned unpaid for insufficient or uncollected funds, we may re-present your check. Your check will not be returned by your financial institution.

EXHIBIT B

SHAKED & POSNER

ATTORNEYS-AT-LAW

255 WEST 36TH STREET

8TH FLOOR

NEW YORK, NEW YORK 10018

TEL (212) 494-0035

FAX (646) 367-4951

March 2, 2011

Collectcorp Corporation
Attn: Dispute Department
455 North 3rd St., Ste. 260
Phoenix, AZ 85004-3924

Re: **Bank of America w/Ruzdija Dzidzovic**
Acct. No.: 4888932999733614
Your File No. BAM 71-074240353
Disputed Balance: \$18,150.85

To Whom It May Concern:

PLEASE BE ADVISED THAT PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. §1692c(c), Ruzdija Dzidzovic wishes Collectcorp Corporation to cease further communications with Ruzdija Dzidzovic in her capacity as a consumer.

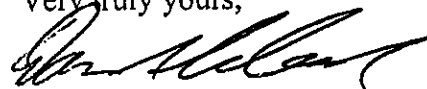
This letter shall further advise that Ruzdija Dzidzovic disputes the validity of the debt as provided by 15 U.S.C. §1692g.

Please obtain verification of this disputed debt and send verification to Shaked & Posner.

Please provide Shaked & Posner the full corporate name of the original creditor.

Please provide Shaked & Posner the address of the original creditor.

Very truly yours,



Dan Shaked, Esq.

EXHIBIT C

Dep. 4947A

Birmingham, AL 35210-1928



9 - 30018-09

Ruzdija Dzidzovic

Apt 3

3012 23rd St

Astoria, NY 11102-3324

COLLECTCORP

800-678-3052

Our hours of operation are

Mon - Thu 8:00am to 11:00pm EST

Fri, 8:00am to 5:00pm and Sat 8:00am to 2:00pm EST

Date: May 07, 2011

Reference #: BAM 71-074324679

Client Name: BANK OF AMERICA - PRIMES MID

AA05

Account #: 4888932999733614

Amount Owning: \$18,150.85



Dear Sir/Mme.,

Your account has been placed with Collectcorp Corporation, a collection agency. This communication from a debt collector is an attempt to collect a debt and any information obtained will be used for that purpose. Calls to or from our company may be monitored or recorded for quality assurance purposes.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Should you have any questions concerning your payment or your account, please telephone our office. Please make sure that your payment clearly identifies your name and that of your creditor so that payment can be properly applied to your account. All payments mailed to this office should be payable to Collectcorp Corporation.

Online check payments can be made on our website at www.collectcorp.com with the use of this security feature code 568171.

MR. MORROW

(866) 541-7282

New York City Department of Consumer Affairs license number 1023996.

Please Detach and Return This Portion with Payment

Ruzdija Dzidzovic

Apt 3

3012 23rd St

Astoria, NY 11102-3324

**COLLECTCORP CORPORATION**

455 North 3rd Street, Suite 260

Phoenix, AZ 85004-3924

Option 1: Make Check Payable To: Collectcorp Corporation

Option 2: Pre-Authorized — Auto Pay []

Routing No. _____

Name of Bank _____

Check No. _____

Account No. _____

Name of Account Holder _____

Signature _____

Payment Amount \$ _____

Reference #: BAM 71-074324679

Company: Collectcorp Corporation (Loc. 71)

By mailing your check you authorize Collectcorp to debit your account, one time for the amount of the check, via an electronic funds transfer (EFT). Funds may be withdrawn from your account as soon as the same day payment is received. In the event your check is returned unpaid for insufficient or uncollected funds, we may re-present your check. Your check will not be returned by your financial institution.